



**MINUTES  
FREMONT PLANNING COMMISSION  
REGULAR MEETING OF JUNE 13, 2002**

CALL TO ORDER: Chairperson Manuel called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Manuel, Commissioners Arneson, Cohen, Harrison, Thomas, Weaver, Wieckowski

ABSENT: None

STAFF PRESENT: Dan Marks, Planning Manager  
Christine Daniel, Senior Deputy City Attorney  
Lynn Dantzker, Assistant City Manager  
Lyle Lopes, Special Counsel  
Roger Ravenstad, Senior Landscape Architect  
Alice Malotte, Recording Clerk  
Chavez Company, Remote Stenocaptioning  
Michael Lydon, Video Technician

APPROVAL OF MINUTES: Regular Minutes of February 28, March 14, and May 23, 2002, were approved as submitted.

Commissioner Weaver abstained from the minutes of May 23<sup>rd</sup> because she was absent on that date.

THE CONSENT LIST CONSISTED OF ITEM NUMBERS 1, 3, 4, AND 5.

Commissioner Cohen recused himself from the following item due to a conflict of interest.

IT WAS MOVED (HARRISON/WEAVER) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-0) THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBER 5.

**Item 5.      MA RESIDENCE – 867 Boar Terrace – (PLN2002-00284)** – to consider a Planned District Minor Amendment and Preliminary Grading Plan for a modification to an approved 6,850 square foot home (8,022 square feet including garage) with a 980 square foot detached cabana for property located in the Mission San Jose Planning Area. This project is categorically exempt from CEQA review Section 15303(a), New Construction or Conversion of Small Structures.

**HOLD PUBLIC HEARING;**

**AND**

**FIND THE PROPOSED PROJECT TO BE CATEGORICALLY EXEMPT FROM ENVIRONMENTAL REVIEW PER SECTION 15303 OF THE CEQA GUIDELINES;**

**AND**

**FIND PLN2002-00284 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;**

**AND**

**APPROVE PLN2002-00284, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".**

The motion carried by the following vote:

AYES: 6 – Arneson, Harrison, Manuel, Thomas, Weaver, Wieckowski  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0

IT WAS MOVED (WEAVER/WIECKOWSKI) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTIONS ON ITEM NUMBERS 1, 3 AND 4.

**Item 1. ZTA HARB SIGN REVIEW – (PLN2000-00131)** – to consider a Zoning Text Amendment to Title VIII (Planning and Zoning) Chapter 2 (Planning) Article 19.1 Historical Architectural Review Board, of the Fremont Municipal Code, to extend the staff review rather than HARB review of signs in areas with adopted design guidelines. This project is categorically exempt from CEQA per Section 15303, New Construction or Conversion of Small Structures.

**HOLD PUBLIC HEARING;**

**AND**

**FIND PLN2000-00131 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE CHAPTERS. THE PROJECT CONFORMS TO THE GOALS AND OBJECTIVES OF THE HISTORIC COMMERCIAL DISTRICTS;**

**AND**

**RECOMMEND TO THE CITY COUNCIL IN CONFORMANCE WITH EXHIBIT "A".**

**Item 3. STEVENSON WETLANDS – Stevenson Boulevard & Union Pacific Railroad Tracks – (PLN2002-00274)** – to consider a Preliminary Grading Plan for a wetlands restoration project located at the westernmost terminus of Stevenson Boulevard in the Industrial Planning Area. An EIR and Supplemental EIR were previously approved for this project as part of the Pacific Commons Project.

**HOLD PUBLIC HEARING;**

**AND**

**FIND THE PROPOSED PROJECT IS WITHIN THE SCOPE OF THE PREVIOUSLY CERTIFIED EIR;**

**AND**

**FIND PLN2002-00274 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE, OPEN SPACE, AND NATURAL RESOURCES CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;**

**AND**

**APPROVE PLN2002-00274, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".**

- Item 4.**        **SHOESTRING P DISTRICT – 42151 Blacow Road – (PLN2002-00282)** – to consider a rezoning from C-N zoning to Planned District zoning and to permit a neighborhood bar through a Planned District Minor Amendment at this location. The project is located in the Irvington Planning Area. This project is categorically exempt from CEQA review per Section 15303(c), New Construction or Conversion of Small Structures.

**CONTINUE TO JUNE 27, 2002 AT APPLICANT’S REQUEST.**

The motion carried by the following vote:

AYES:	7 – Arneson, Cohen, Harrison, Manuel, Thomas, Weaver, Wieckowski
NOES:	0
ABSTAIN:	0
ABSENT:	0

## **PUBLIC COMMUNICATIONS**

### **ORAL COMMUNICATIONS**

## **PUBLIC HEARING ITEMS**

- Item 2.**        **PACIFIC COMMONS – Catellus Development Automall Parkway – (PLN2002-00263)**  
– to consider a Planned District Major Amendment to modify the approved land use and circulation plans for the Planned District known as Pacific Commons (P-2000-214). Specifically, the proposal would: 1) relocate the proposed southerly extension of Boscell Road to the east and rename it Braun Street; 2) create an area between the existing Auto Mall and proposed Braun Street that would be designated as a major retail area and that would accommodate both regional and community commercial land uses; 3) designate additional lots southerly of the existing Auto Mall for additional auto dealerships, and 4) allow a reduction in the minimum height requirements for the office/R&D buildings in a portion of the site. Additionally, the proposal includes an amendment to the City’s Option Agreement for property within Pacific Commons. The amendment proposes to relocate the City’s “Option Parcels” from the area proposed for major retail development to an area easterly of the relocated Braun Street. An Addendum to the adopted EIR and Supplemental EIR has been prepared per Section 15164 of the 2002 CEQA Guidelines.

City Planner Marks pointed out a set of modifications to the staff report and to the proposed design goals, objectives and guidelines. Many Fremont users had contacted the applicant regarding available space, including Costco, which was a different type of space than originally envisioned by the applicant and the City. This request was generated by the changing market conditions and the need to accommodate the specific users. Several auto dealers were also interested in acquiring space in the Auto Mall. Staff supported these changes and would review architecture to make sure it conformed with the guidelines. The Commission would not review any architecture for buildings under 50,000 square feet.

Sean Whiskeman, Director of Development with Catellus Development Corporation, stated that his role was to market and develop the project. He had been working with the brokerage community, potential retail, office, industrial and research and development tenants. He introduced Michael Green attorney, who had been involved with the project since approximately 1996.

Michael Green stated that this amendment would create a major retail area along Auto Mall Parkway adjoining the Fremont Auto Mall, which would allow two additional lots to be available for auto dealerships and allow for single-story improvements for tenants who were not ready to use two-story buildings. The amendment would strengthen the auto mall, help to attract new retail and restaurant businesses, help to retain businesses in the city and help to provide an array of amenities for the people working and visiting Pacific Commons. The majority of the retail allocated for the project would be located near the auto mall and would push the office density towards and into the central core. The amendment would not increase the overall density of the project, would not increase the amount of retail, would not have a material impact on traffic and, most important, would not have an impact on the overall vision for Pacific Commons. Later, a new subdivision map would implement the relocation of Braun Street and would deal with the affected lots. The City's business community center option parcels would be relocated within the project. A site plan for the major retail facility would be brought before the Commission in the future, along with architectural plans for the major buildings.

Mr. Whiskeman stated that this was the fourth phase of the project.

- The auto mall was the first phase. They promised to exclusively market two of the lots for auto mall use and were asking that a third lot be included that would not be a part of the exclusive marketing effort. If, after three years, their market effort was not successful, the lots would revert to office or R&D use
- The existing R&D and industrial buildings comprised the second phase
- The continued creation of the wetlands was the third phase.

Mr. Whiskeman continued that this fourth phase would encompass 270,000 square feet and would be anchored by Costco, which would move from its current, inadequate Fremont location approximately one mile north. The rear of the large Costco building would face the Auto Mall and one or two mid-sized retailers would be located along Auto Mall Parkway within the retail area. Other retail facilities would be along the new Braun Street and could include food-related businesses. The future retail opportunities that had always been envisioned along the Central Commons would still be intact, the Western Activity Center and the Eastern Activity Center, in which it was hoped that a full-service hotel would be located were not affected. Besides being interested in adequate and appropriate space, office and R&D clients were interested in the retail and dining amenities that would be available for their employees. Some local companies were interested in owning single-story buildings within the project and the applicant was working with staff to design buildings for these clients that would be single-story with two-story facades and would allow flexibility for the creation of two-story buildings in the future. Major road improvements would commence this fall with Bunche Drive, which would be extended to Cushing Parkway. Ultimately, Braun Street and Bunche Drive would be extended to Auto Mall Parkway, which would open up new opportunities within the project. The construction of the shopping center would follow along the same time line and should be completed by next fall. He read some of the Pacific Common planned district guidelines to emphasize that the altered plan still held to their "vision and intent."

Chairperson Manuel opened and closed the public hearing.

Commissioner Wieckowski asked if the two new auto lots would be located on Bunche Drive or would they be within the auto mall circle.

Mr. Whiskeman pointed out on the map how the new auto businesses would be located on Cushing Parkway at the corner.

Commissioner Thomas asked about the size was of the current Costco and of the future Costco.

Dave Kendall, Costco representative, stated that the existing facility was 127,000 square feet and the new Costco would be 148,600 square feet using the current prototype.

Vice Chairperson Arneson asked if Costco intended to have a service station.

Mr. Kendall answered that it did.

Commissioner Harrison stated that he had a conversation with the applicant on June 12<sup>th</sup>. He asked if Mr. Whiskeman had any comments concerning the new modifications noted in the memo. He asked the value of the street improvements and development.

Mr. Whiskeman stated that he had just received the memo, but had not reviewed it, although he had been involved with the draft. The value of the street improvements would be approximately 25 million dollars, the retail center would be approximately another 25 million dollars and the office and R&D area would be approximately 9 million dollars. He declined to estimate the value of the development that would become part of the auto mall.

Vice Chairperson Arneson had a number of questions:

- Would any of the Pacific Commons Boulevard development be sacrificed for the new power center?
- What types of restaurants were to be considered for the power center? Would fast-food restaurants be considered?

Mr. Whiskeman replied:

- None of the development planned for Pacific Commons Boulevard would be substantially changed.
- The restaurants would vary. They could include local restaurants and/or the larger national restaurant groups, such as quick service and casual restaurants. Quick service would be on the order of Quiznos, La Salsa or Baha Fresh. High-end dining was envisioned along Pacific Commons Boulevard and in the east activity center (hotel).

Assistant City Manager Dantzker: stated that during a recent discussion with Catellus representatives, it was agreed that drive-through, fast food would not be allowed in the project.

Vice Chairperson Arneson continued:

- Would the power center, with Costco as its anchor, eventually include the usual small shopping center amenities, such as a cleaners and a beauty salon?
- Would the applicant agree to allowing only one service station in the project?
- Would the single-story buildings have a false front similar to Hollywood Video, which she objected to and was concerned about?
- Where would the City's option land be located?

Mr. Whiskeman replied:

- The parcels along the edge of the Costco shopping area would incorporate uses that served the business community within the project, which he saw as mainly restaurants. He also wished to have services that would serve the weekend shopper.
- The Costco service station would be adequate for the center.
- The single-story buildings would have the appearance of two-story buildings on the front and around the corners.

Assistant City Manager Dantzker stated that the City's option land location was still being decided. It would not be located in the southern half of the property, which Cisco Systems had leased.

Commissioner Thomas asked if another "big box" office supplies facility would be allowed to locate in the shopping area that would support the businesses within the development. She feared that other "big box" companies would then follow.

Mr. Whiskeman stated that one of the office groups had approached him about locating within the retail area. He stated that site constraints probably would not allow any other retail facility as large as Costco. It would not become a McCarthy Ranch.

Chairperson Manuel asked how the Costco parking and building would be sited and what would the visibility be from Auto Mall Parkway. She wondered how would the retail facilities along Braun Street that were within the new retail area link to the rest of Pacific Commons.

Mr. Whiskeman stated that the setbacks and landscaping in the planned district guidelines would be adhered to. Parking would be along Auto Mall Parkway, screened by other buildings, swales and landscaping. View corridors from Auto Mall Parkway would be available to the various retail facilities. Some preliminary plans had been created for strong linkages within the Commons that would come before the Commission in the future.

City Planner Marks noted that the originally planned "redwood forest" along Auto Mall Parkway would not be feasible in this location and a new landscape plan would come back to the Commission in the future.

Mr. Green stated that on the east side of Braun, the buildings would face the street, but on the retail side of the street, it would be difficult to have all the buildings face the street. Buildings would have entrances on the street where possible and if not possible, pedestrian walkways between the buildings would draw consumers to the entrances on the retail center (or parking) side of the buildings. There would be no wall of buildings facing Braun Street.

Assistant City Manager Dantzker added retail could not always support two entrances. The goal was to create linkages that would allow someone to walk from Braun Street to the entrances on the parking lot side of the buildings.

Commissioner Wieckowski asked if the plaza square would be lost to the future auto dealerships. He wondered how people would walk from the train station through the auto retail area and into the development without the plaza.

Mr. Green answered that he was correct. However, other plazas would be created throughout the development. The 15 percent open space requirement would not be met within the auto mall, because of parking and storage needs.

Commissioner Cohen recalled the originally approved design plan was, in his opinion, a model of how to create a new urbanist development correctly. Now, he felt concern that this plan before the Commission represented an erosion of that concept and could be a fatal blow to it. He had no concerns about the additional auto mall lots. Increased revenue to the city was not something that the Commission considered, although it was certainly mindful of it. He worried that the Costco retail area would draw future retail businesses from the original plan that was for a retail and business mix along Pacific Commons Boulevard.

Mr. Green remembered Commissioner Cohen's enthusiasm for the original Pacific Commons concept. He did not believe that the new retail area would "bleed the life of the retail in the rest of the project." He hoped that it would feed the retail in the rest of the project by creating a critical mass that would initially draw tenants and customers into the project. The original 21<sup>st</sup> Century, high-tech, urban, pedestrian-oriented, mass transit oriented project was still the vision.

Commissioner Cohen understood that the project could be successful only if it provided what the market dictated and that the market had changed. He asked why not just develop within the existing plan for Pacific Commons Boulevard. He believed that Costco could adapt to the original plan for retail along Pacific Commons Boulevard, as had been done in other states.

Mr. Green replied that 330,000 feet of retail was never possible within the Pacific Commons Boulevard corridor and it was assumed that the retail would be spread throughout the project. With the change in the market, he believed something like Costco was important to jump-start the rest of the retail and draw more tenants into the development.

Mr. Whiskeman stated that he could not envision Costco creating a two or three-floor facility compared to their usual high-volume prototype. Parking would also be difficult to provide. However, other large retailers might be interested in the future.

Commissioner Cohen asked whether what was approved in 2000 contained a specific designated retail area. Given the fact that the City had worked so hard to get to the original plan and retail areas had been designated within that plan, why was a larger area in another place being considered.

City Planner Marks stated that he was correct. The designated retail areas were to be in West Activity Center and along Pacific Commons Boulevard. The 330,000 square feet that was to be retail space had not been specifically designated to the three areas, i.e., 50,000 in the East and West Activity Centers, etc.

Assistant City Manager Dantzker added that she did not recall that Pacific Commons Boulevard would have regional destination retail and remembered that it was thought that it might happen elsewhere.

City Planner Marks stated that this regional destination kind of retail center had been proposed by Catellus to be located at the "triangle" (the East Activity Center). Staff did not believe it was an appropriate location for it. Staff wished to locate a high density, mixed retail, such as a full-service hotel at that site. The site under consideration had the least impact on the rest of the project and had Auto Mall Parkway visibility. Staff concluded that Costco could not fit into the Pacific Commons retail area. The local land value did not justify building a parking garage to accommodate a two or three-story retail space.

Commissioner Cohen understood the City's decision making process, but he was still concerned that the big box was created before the downtown, which could suspend the downtown process. He did not doubt Catellus' good faith. However, time after time, the Commission (and the City) had approved a project that became something very different. He understood that the market drove many of those changes, but wanted his concerns to be considered. He stated that he did not feel as negative as his comments had indicated. He did not believe the new proposed shopping area should be a "done deal in its present form."

Assistant City Manager Dantzker stated that she had been concerned that Costco would create unfair competition for the CBD, but she and the consultants concluded that it would not compete with the prototype launch block planned for downtown. She believed that the 50 million square feet of vacant office space in the Bay Area and the changed economy would impact the vision of Pacific Commons more than a regional Costco shopping area.

City Planner Marks stated that Pacific Commons would not become another Union Landing, which was not to say that the Costco area might not look like a standard regional shopping center. It was not possible to turn a Costco into a pedestrian-friendly downtown. However, he expected that the rest of the project would conform to the original vision.

Assistant City Manager Dantzker stated that guidelines and goals and objectives would be built in to make this portion of the project different from other shopping centers.

Commissioner Cohen suggested that if this shopping center was approved, then the Commission should review the architectural design.

City Planner Marks stated that review of the larger buildings would be reviewed.

Assistant City Manager Dantzker stated that the current proposal would allow for Commission review of the site plan and architectural review for buildings over 50,000 square feet.

Commissioner Cohen stated that he wanted to review all buildings in the project, which would be the way to stay within the original vision of the development.

Commissioner Weaver stated that she was not sure that review of every building was practical, but she did agree to requiring that Costco come in with something that was a "cut above" what they normally built.

Commissioner Thomas agreed with reviewing all buildings to be built within Pacific Commons. She agreed that the local Costco needed to expand. The difference was that this was a business that already existed in the City rather than another big box coming into the City.

Commissioner Harrison stated that he had been told that the available office space in the Bay Area would take seven years to fill without building anything else. This retail change should help with the rest of Pacific Commons. It was in the best location and he did not believe a three-story Costco (where customers had to bring multiple cases of soda down multiple stories to their cars) was feasible. He trusted staff to know what the Commission wanted and review of the smaller buildings should be left to them.

Vice Chairperson Arneson reviewed the points she agreed with:

- There would be only one service station in the project
- The Commission should have architectural review of all buildings, as she was particularly concerned about false-fronted, one-story buildings
- Allowing Costco and other retail entities at this site would link to all of the Pacific Common Boulevard entities
- The Auto Mall lots were appropriate
- No retail uses that were seen in most other shopping centers would be allowed



Chairperson Manuel agreed with Vice Chairperson Arneson's and Commissioner Cohen's remarks. She was concerned about the parking area and encouraged that it be pedestrian friendly. She asked that a final landscaping plan be brought before the Commission for the whole Costco retail area.

**DISCUSS PACIFIC COMMONS PLANNED DISTRICT MAJOR AMENDMENT PROPOSAL;**

**AND**

**PROVIDE STAFF DIRECTION;**

**AND**

**CONTINUE THE PUBLIC HEARING TO THE JUNE 27, 2002 PLANNING COMMISSION MEETING FOR DECISION.**

**Item 6.**

**TREE PRESERVATION ORDINANCE – (PLN2002-00301)** – to consider a City-initiated-Zoning and Subdivision Code Text Amendment to the Tree Preservation Ordinance Title VIII (Planning and Zoning) and Title IV of the Fremont Municipal Code. CEQA Requirements: An Initial Study and a Mitigated Negative Declaration was prepared and circulated for public review and comments. The public comment period ended on June 1, 2002.

Senior Landscape Architect Ravenstad asked for questions.

City Planner Marks reminded the Commission that its purview was relatively limited and concerned only the zoning ordinance portion of the amendment.

Commissioner Thomas understood that under the ordinance, if she decided to take out the large tree in her front yard, she would have to get a permit or she would be breaking the law. She believed that this aspect of the ordinance needed to be widely publicized.

Senior Landscape Architect Ravenstad stated that she was partially correct. However, the tree had to be larger than 18 inches in diameter. The ordinance would be published in the newspaper in an easily understood, summarized form.

Special Counsel Lopes noted that all the tree services in the city would be notified of the ordinance and the tree service would be liable, along with the owner, if the ordinance was violated. He acknowledged that many services were small and may not become aware of this ordinance.

Commissioner Thomas foresaw a tree owner's gardener renting a chain saw and taking the tree down. She again asked how this ordinance would be communicated to the City residents.

Senior Landscape Architect Ravenstad stated that this ordinance had been in effect since the 60's and it would currently be against the law to take down Commissioner Thomas's theoretical tree. He believed that the "bad" events regarding trees as detailed in the newspaper were what got people's attention. The City's web site would also have the ordinance on it, along with a permit application. He did not believe it was financially feasible to mail the information to every resident.

Commissioner Thomas suggested using the City Newsletter. She also suggested issuing a press release and inviting the newspaper to write a story about the ordinance and its ramifications.

Senior Landscape Architect Ravenstad agreed that the information could be put into the newsletter.

Chairperson Manuel stated that her concerns were the same as Commissioner Thomas's. She asked how the ordinance would be policed. She asked how much a permit would cost and if the permit application needed to be brought into the department for approval. How would staff make a decision about the acceptance or denial of a permit application?

Senior Landscape Architect Ravenstad replied that the City would respond on a complaint basis. There would be no "tree police." He hoped that a neighbor would call in while the tree was being taken down rather than after the fact. The permit cost nothing and the application would be brought into the department. How staff made a decision about a permit application was the biggest reason for this amendment, as the current ordinance gave very little direction. Criteria for supporting removal were listed in the ordinance as follows:

- Tree diseased or dying
- Short life expectancy, less than five years
- Tree host to disease that could spread and cause widespread loss of trees
- Removal due to overcrowding
- Current development plan unable to accommodate preservation of tree
- Denied full enjoyment of land and existing utilities
- Aesthetic value had been lost

Senior Landscape Architect Ravenstad continued with the reasons for denying removal:

- Played important role to environment
- Truly beautiful and unique in and of itself
- Located on vacant land
- Member of desirable grove

Chairperson Manuel gave an example for removal that did not fit the above criteria.

Senior Landscape Architect Ravenstad stated that only trees over 18 inches in diameter fell under this ordinance. Currently, trees down to four inches were regulated. Every situation would be evaluated separately. If the proposed project was truly superior and would benefit the neighborhood more than what was there, the removal of a tree (or trees) would be warranted.

Commissioner Weaver recalled a homeowner who refused to replace a tree that she had removed, because it was detrimental to the health of her child. In her opinion, if someone refused to replace a tree, the penalties should be multiplied many times. She wondered if the fines would actually be collected.

Special Counsel Lopes stated that it was a separate offense to fail to comply with the tree replacement requirement. The fines would be collected.

Senior Landscape Architect Ravenstad stated that in the past, "there was no good place to put penalty money" and it seemed inequitable to collect money that would not be used to replace what was lost. Now, there was a place.

Special Counsel Lopes stated that this ordinance would be highly effective in collecting fines, as it was very clear cut.

Senior Deputy City Attorney Daniel stated that the code enforcement officers were a very aggressive and effective unit when they had a law to enforce. Also, certain penalties would be collected through a collection agency.

Commissioner Harrison also recalled the incident mentioned by Commissioner Weaver. He asked if the health of a family member would be a reason to remove a tree.

Senior Landscape Architect Ravenstad agreed that a family member's health was an acceptable reason under "full enjoyment of the property and the land."

Commissioner Thomas could not find anything that stated there was correlation between the collected fines and what they would be used for. She asked if that could be added to the amendment.

Senior Deputy City Attorney Daniel stated that all fines generally went into the general fund.

Special Counsel Lopes stated that the City expected that unlawfully removed trees would be replaced "due to the pain of noncompliance." There was a provision that provided for monies paid in lieu of replacement; for example, if there was no room on the lot. That money would not be a fine, but would be mitigation money that could be used to purchase a tree for City-owned properties.

Vice Chairperson Arneson asked if the ordinance applied to what was only in the front yard and if trees less than 18 inches in diameter could be removed from the back yard without a permit. She believed that the message needed to note that only trees 18 inches or larger would be affected by the ordinance, so that people did not feel that the ordinance was too intrusive.

Senior Landscape Architect Ravenstad stated that she was correct concerning a lot that was smaller than 10,000 square feet. He noted that native trees, such as redwood and oak trees, were the exception and had a minimum diameter of 10 inches in diameter. In the backyards of lots under 10,000 square feet, even the 18-inch trees would not be regulated.

Chairperson Manuel read that all lots (except single-family homes) under 10,000 square feet where side yards and rear yards were exempt and asked what it meant. She agreed that the ordinance seemed punitive. She suggested a campaign before the ordinance went into effect that emphasized the importance of trees, that focused people's attention on the positive aspects of the ordinance.

Senior Landscape Architect Ravenstad stated that today's ordinance did not regulate any trees on lots under 10,000 square feet. The new ordinance added trees only in the front yards of those lots.

Commissioner Wieckowski asked why a minimum 15-gallon tree was required in the industrial district and 5-gallon trees would not be allowed. He understood the wish for an "instant garden." However, he was not convinced that requiring the larger tree benefited the public good. He also asked why the parking median needed to be increased to 10 feet.

Senior Landscape Architect Ravenstad stated that a project with a landscape plan would require the 15-gallon trees, which was the industry standard. An individual could still plant a five-gallon tree. Five-gallon trees were rarely seen on development applications. He stated that a 15-gallon tree was actually considered a small tree. In an industrial area, with little maintenance, a five-gallon tree had a small measure of success. Currently, the median was six feet where an industrial property backed up to a residential property. Increasing the median to 10 feet allowed large conifer trees to attain their natural height without breaking up the six-foot spaces and would guard from removal of the trees when that happened.

Chairperson Manuel opened and closed the public hearing.

Commissioner Cohen supported the ordinance and encouraged the public not to lose sight of what this ordinance would accomplish, which was very important. He believed that staff had done an excellent job with balancing one's right to privacy with regard to their land and the right of the community to have trees. He read from the ordinance:

"Among the features that contribute to the attractiveness and livability of the City of Fremont are its trees, both indigenous and introduced, growing as single specimens, in clusters or in woodland areas. These trees have significant psychological and tangible benefits for both residents and visitors of the City. The trees contribute to the visual framework of the City by providing scale, color, silhouette and mass. Trees contribute beneficially to climate of the City. Trees contribute to the protection of the natural resources. Trees contribute to the economy of the City by increasing and sustaining property values. Trees collectively constitute an urban forest and removals or additions of even a single tree can negatively or positively affect the urban forest and the City of a whole. The loss or removal of trees from one location in the City's urban forest can often be at least partially mitigated by planting or replacing trees or replacement trees in the same or different location."

Chairperson Manuel spoke for the Commission by stating that every Commissioner agreed with the statement read by Commissioner Cohen.

Commissioner Cohen noted that all developers were held to the ordinance, including the City.

IT WAS MOVED (COHEN/WEAVER) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0) THAT THE PLANNING COMMISSION **HOLD PUBLIC HEARING;**

**AND**

**RECOMMEND THE CITY COUNCIL FIND THE INITIAL STUDY CONDUCTED HAS EVALUATED THE POTENTIAL FOR THIS PROJECT TO CAUSE AN ADVERSE EFFECT -- EITHER INDIVIDUALLY OR CUMULATIVELY -- ON WILDLIFE RESOURCES. THERE IS NO EVIDENCE THE PROPOSED PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES**

**AND**

**RECOMMEND THE CITY COUNCIL APPROVE DRAFT MITIGATED NEGATIVE DECLARATION AND FIND IT REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT**

**AND**

**RECOMMEND THE CITY COUNCIL APPROVE CHANGES TO THE ZONING ORDINANCE, AS SHOWN IN EXHIBIT "C".**

The motion carried by the following vote:

AYES:	7 – Arneson, Cohen, Harrison, Manuel, Thomas, Weaver, Wieckowski
NOES:	0
ABSTAIN:	0
ABSENT:	0

## **MISCELLANEOUS**

Information from Commission and Staff

### **Information from Commission**

City Planner Marks noted that the Commissioners had received an email regarding acquiring information from the Oakland A's concerning the potential stadium in the City. Staff felt the request was premature.

Commissioner Wieckowski noted that it was his request, and he had since spoken with interested parties and agreed with staff.

Commissioner Thomas noted an email had been received regarding the commercial/residential interface concerning noise.

Chairperson Manuel noted that the Commissioners had received a request to participate in the annual Niles dog show as judges.

Chairperson Manuel stated that she and Commissioner Wieckowski had attended the affordable housing tour on June 1<sup>st</sup> and "seeing the end product was very enjoyable."

### **Information from Staff**

City Planner Marks suggested that Commissioners might be interested in attending the next City Council study session in the Niles Room on the third Tuesday, which would include the retail presentation.

Meeting adjourned at 9:35 p.m.

SUBMITTED BY:

APPROVED BY:

Alice Malotte  
Recording Clerk

Dan Marks, Secretary  
Planning Commission